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The *Qāḍīs* of Fustāt–Miṣr under the Ṭulūnids and the Ikhshīdids: The Judiciary and Egyptian Autonomy

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The second half of the third/ninth and the fourth/tenth centuries are of particular importance for the development of the judiciary in the central lands of the ‘Abbāsid caliphate. At the end of the *miḥna* and the victory of Sunnism under al-Mutawakkil (r. 232-47/847-61), the caliphate agreed not to interfere in the legal sphere, thus allowing the principal schools of law to complete their development toward their classical structure.¹ In Iraq the *qāḍīs* were allowed more judicial freedom, thanks to the growing independence of the legal system and to the political weakness of the caliphate,² while in Egypt the provincial rulers and two successive dynasties, the Ṭulūnids (254-92/868-905) and the Ikhshīdids (323-58/935-69), profited from the caliphate’s weakness and imposed their autonomy *de facto*.³

The role played by the judiciary in this process is still unclear, as is the impact of Egyptian autonomy on the development of the local judiciary.⁴ In this article, I intend to study the relationship between the Egyptian governors and the judiciary, from the accession of Aḥmad b. Ṭulūn in 254/868 until the arrival of the Fāṭimids in 358/969. My main source of reference is *Raf‘ al-iṣr ‘an quḍāt Miṣr*, a biographical dictionary written by Ibn Ḥajar al-‘Asqalānī (d. 852/1449), which focuses on the history of Egyptian *qāḍīs*.⁵ Although he wrote this dictionary

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¹ See J. Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 53ff.; C. Melchert, *The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E.* (Leiden: Brill, 1997), 87ff.; W. Hallaq, “From Regional to Personal Schools of Law? A Reevaluation,” *Islamic Law and Society* 8 (2001): 1-26.

² M. Tillier, *Les Cadis d’Iraq et l’État abbasside (132/750-334/945)* (Damascus: IFPO, 2009), 646ff.

³ The most comprehensive studies on the Ṭulūnids and the Ikhshīdids are: Z. M. Hassan, *Les Tulunides: Étude de l’Égypte musulmane à la fin du IX^e siècle, 868-905* (Paris: Établissements Busson, 1933); G. Wiet, *L’Égypte arabe de la conquête arabe à la conquête ottomane, 642-1517 de l’ère chrétienne* (Paris: Plon, 1937); J. L. Bacharach, “The Career of Muḥammad Ibn Ṭughj al-Ikhshīd, a Tenth-Century Governor of Egypt,” *Speculum* 50 (1975): 586-612; J. L. Bacharach and S. Shamma, “Les premiers dirhams ikhshīdides,” *Revue numismatique*, 6^e série, 17 (1975): 139-44; S. I. Kāshif, *Miṣr fī ‘aṣr al-ikhshīdiyyīn* (Cairo: al-Hay’a al-Miṣriyya al-‘Āmma, 1989); Th. Bianquis, “Autonomous Egypt from Ibn Ṭulūn to Kāfūr, 868-969,” in *The Cambridge History of Egypt*, vol. 1, ed. C. F. Petry (Cambridge: Cambridge Univ. Press, 1998), 86-119.

⁴ The only political overview of the judgeship under the Ṭulūnids is a short chapter in Hassan, *Les Tulunides*, 222-28. For the Ikhshīdids, see Kāshif, *Miṣr fī ‘aṣr al-ikhshīdiyyīn*, 205-27. S. Farrāj’s chapter on judgeship in *al-Dawla al-ikhshīdiyya* (Cairo: Markaz al-Rāya, 2006), 119-25, is a rehashing of Kāshif’s original work. Some preliminary reflections on the *qāḍīs* under the Ikhshīdids can be found in the introduction in M. Tillier, *Vies des cadis de Miṣr, 237/851-366/976* (Cairo: IFAO, 2002), 16-33.

⁵ I will draw on the text edited by Rhuvon Guest, which he appended to his edition of al-Kindī, *Kitāb al-Wulāt wa-kitāb al-quḍāt* (Leiden: E. J. Brill, 1912), 501-614. In the following citations, the first

five centuries after the facts, Ibn Ḥajar relies heavily on contemporary works: primarily that of Ibn Zūlāq (d. 386/996), who wrote a now lost *Akhbār quḍāt Miṣr* dedicated to the *qādīs* of the Ṭulūnid and the Ikshīdid periods,⁶ and secondarily that of Ibn Yūnus (d. 347/958), author of two biographical dictionaries about Egyptians and strangers who settled in Egypt.⁷ Whereas another late author such as Ibn al-Mulaqqin (d. 804/1401-2), who also wrote a book on Egyptian *qādīs*, culled his material in order to construct a hagiographical narrative of judges whom he mostly regards as saints,⁸ Ibn Ḥajar did not stray from his sources. Even if he tends to reorganize and synthesize the information provided by his predecessors, as a comparison between his *Rafʿ al-iṣr* and al-Kindī's *Akhbār quḍāt Miṣr* shows,⁹ Ibn Ḥajar usually quotes them faithfully and almost in extenso, avoiding any obvious manipulation. This makes his book a fairly reliable source for the history of the Ṭulūnid and Ikshīdid periods.

In the below several elements will be taken into consideration: (1) the institutional relationship between political power and the judiciary (who appointed the *qādīs*, how were they selected, and did the government choose local scholars or did the *qādīs* come from outside the province?); (2) the financial ties between the governors and the *qādīs*, which were not only symbolic of the delegation of power, but could also denote the subservience of the judiciary to the government;¹⁰ (3) the daily interactions between the *qādīs* and the governors; (4) the judicial practice of the *qādīs*; and (5) their reputation. Although Ibn Ḥajar omits chains of transmitters (*isnāds*), which probably appeared in Ibn Zūlāq's book, it is likely that most of the reports regarding *qādīs* were put into circulation and transmitted by elites who were directly concerned with political affairs.¹¹ Therefore, I assume that the *qādīs*' biographies

number refers to the page in Guest's edition, the second to the page in my French translation in *Vies des cadis de Miṣr* (e.g., 506/55). A full edition of *Rafʿ al-iṣr* was first published in 1998: Ibn Ḥajar al-ʿAsqalānī, *Rafʿ al-iṣr ʿan quḍāt Miṣr*, ed. ʿA. M. ʿUmar (Cairo: Maktabat al-Khānjī, 1998). For a list of the *qādīs* and their dates of appointment, see Tillier, *Vies des cadis de Miṣr*, 11-14; a shortened list follows at the end of this article.

⁶ Ibn Khallikān, *Wafayāt al-aʿyān*, ed. I. ʿAbbās, 8 vols. (Beirut: Dār Ṣādir, 1994), 2: 91; Ḥājjī Khalīfa, *Kashf al-zunūn*, 6 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1992), 1: 28. See also F. Sezgin, *Geschichte des arabischen Schrifttums* (Leiden: E. J. Brill, 1967–), 1: 359-60; Tillier, *Vies des cadis de Miṣr*, index. For Ibn Zūlāq, see R. Gottheil, "Al-Ḥasan ibn Ibrāhīm ibn Zūlāq," *JAOS* 28 (1907), 254-70.

⁷ See F. Rosenthal, "Ibn Yūnus," in *Encyclopaedia of Islam*² (EI²). These books are now lost. ʿAbd al-Fattāḥ Fathī ʿAbd al-Fattāḥ tried to reconstruct them by gathering all the quotations that he found in later sources: Ibn Yūnus, *Taʾrīkh Ibn Yūnus al-Miṣrī*, ed. ʿA. F. ʿAbd al-Fattāḥ, 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000).

⁸ Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār fī quḍāt al-amṣār*, ed. M. M. al-Sharqāwī (Cairo: Maktabat al-Thaqāfa al-Dīniyya), 1996. For the methodology of Ibn al-Mulaqqin, see the introduction in my forthcoming French translation of al-Kindī, *Histoire des cadis égyptiens*.

⁹ See W. al-Qādī, "An Umayyad Papyrus in al-Kindī's *Kitāb al-Quḍāt*?" *Der Islam* 84 (2008): 202-204.

¹⁰ See Tillier, *Les Cadis d'Iraq et l'État abbasside*, 272.

¹¹ This is clear in al-Kindī's *Akhbār quḍāt Miṣr*, in *Kitāb al-Wulāt*, ed. R. Guest (especially toward the end of the book), where the main informants all belong to the highest category of the *ʿulamāʾ*, who had close connections with the *qādīs* and/or the government.

reflect the views of their contemporaries— other scholars in particular—and the way they looked upon the relationship between the *qāḍīs* and the government.

THE ṬULŪNIDS (254-292/868-905)

When Aḥmad b. Ṭulūn (r. 254-70/868-84) arrived in Fustāt as governor (*amīr*), it had been an established practice for over a century for the caliph to appoint the *qāḍī* of Fustāt.¹² The relationship between the judiciary and the central government kept the ambitions of governors in check, since they were no longer the only representatives of the caliph in the province—they had to share power with other officials such as the *qāḍī*. When Ibn Ṭulūn sought regional autonomy, two principal problems arose: control of the finances and control of the judiciary.¹³ As early as 258/871 Ibn Ṭulūn discharged Ibn al-Mudabbir, the head of fiscal administration in Egypt, and sent him to Syria. At the same time, he discharged the *ṣāhib al-barīd*, chief of the postal and intelligence services, whose responsibility *inter alia* was to keep a watch on the province on behalf of the caliphal government.¹⁴ The *qāḍī* Bakkār b. Qutayba, however, an appointee of the caliph al-Mutawakkil (r. 246-70/860-84) and originating from Iraq, held onto his position until his death in 270/884.¹⁵ Ibn Ṭulūn probably realized that dismissing and replacing Bakkār would be too dangerous. Bakkār was a pious man,¹⁶ respected by the Egyptian populace,¹⁷ and his arbitrary dismissal would have certainly weakened the amir's position in the province. Moreover, Ibn Ṭulūn's political designs relied largely on being able to control income from Egyptian taxes, and the *qāḍī* Bakkār does not seem to have opposed any of these ambitions. It is also probable that Bakkār was a political asset, from whom Ibn Ṭulūn expected his government to acquire an aura of legitimacy. However it may be, he chose to keep a *qāḍī* who was the caliph's delegate and who received his instructions from Baghdad.¹⁸ This was a risky choice, since Bakkār could easily become a dangerous opponent.

Ibn Ṭulūn's policy vis-à-vis the judiciary evolved toward the end of his rule, when a crisis erupted upon Bakkār's refusing to curse the regent al-Muwaffaq, as requested by Ibn Ṭulūn. The amir began to hold *maẓālim* or claims court sessions where he dispensed justice

¹² Tillier, *Les Cadis d'Iraq et l'État abbasside*, 118-23.

¹³ Many reports portray Ibn Ṭulūn as highly respectful of the scholars, but since we modern historians cannot know whether his actions were dictated by a sincere piety, the cultural environment, and/or a political strategy, we can only consider how his behavior toward the scholars in general and the *qāḍīs* in particular makes sense in light of his political agenda. In what follows, I will therefore analyze Ibn Ṭulūn's relationships with *qāḍīs* from a political perspective, which is not exclusive of other interpretations.

¹⁴ Bianquis, "Autonomous Egypt," 92.

¹⁵ See al-Dawādārī, *Kanz al-durar wa-jāmi' al-ghurar*, ed. D. Krawulsky (Beirut: Franz Steiner, 1992), 5: 268.

¹⁶ Ibn Ḥajar, *Raf' al-iṣr*, 506/55, 507/57; Ibn Taghrībirdī, *al-Nujūm al-zāhira fī mulūk Miṣr wa-l-Qāhira*, 16 vols. (Cairo: Maṭba'at Dār al-Kutub al-Miṣriyya, 1932-72), 3: 47.

¹⁷ His tomb became a place of popular pilgrimage soon after his death. Ibn Ḥajar, *Raf' al-iṣr*, 514/71.

¹⁸ *Ibid.*, 507/58.

himself.¹⁹ As a consequence, most of the litigants abandoned Bakkār's court in the mosque, and the old *qāḍī* was left unemployed.²⁰ Ibn Ṭulūn imprisoned Bakkār in 269/883, but never dismissed him officially; he only demanded that the *qāḍī* appoint a deputy who would dispense justice in his stead.²¹ Egyptian judicial autonomy from the caliphate was not yet complete.

It is only after Ibn Ṭulūn's death that his successor, his son Khumārawayh (r. 270-82/884-96), completed his work, transforming the judiciary into a provincial institution independent from Baghdad. Bakkār died in 270/884, soon after Ibn Ṭulūn, but his position was not filled. Khumārawayh succeeded Ibn Ṭulūn without the caliph's endorsement, and a war soon broke out between Khumārawayh and the regent al-Muwaffaq (d. 278/891), which probably prevented the 'Abbāsid caliphate from appointing a new *qāḍī*.²² For seven years, Fustāt remained without. Instead, Khumārawayh built up the *maẓālim* court as an important institution and appointed Muḥammad b. 'Abda as head.²³ The *maẓālim* exemplified the administration of justice by the political ruler, and by replacing the *qāḍī* by such a court, the new amir probably intended to impose his control over the judgeship.²⁴ When his relationship with the central government regained a more peaceful footing,²⁵ Khumārawayh took the final step of restoring an official judiciary. In 278/891, Ibn 'Abda was formally appointed by the caliph al-Mu'tamid (r. 256-79/870-92)—since he was already in charge of the *maẓālim*, it was clear that he answered to the amir.²⁶ The right of the Ṭulūnid amir to appoint his own *qāḍī* was officially acknowledged two years later, in the treaty of 280/893 between Khumārawayh and the caliph al-Mu'taḍid (r. 279-89/892-902), in which the Ṭulūnids were given “for three decades the right to direct Friday prayer, levy the land tax, and to appoint judges and civil/fiscal administrators.”²⁷

With the judiciary officially linked to the caliphate during a large part of the Ṭulūnid period, the amirs had to interact with it cautiously. Ibn Ṭulūn chose not to impose his

¹⁹ To assert his legitimacy, Ibn Ṭulūn wanted to appear a just ruler, which is why he ordered Abū Ja'far al-Marwazī to pay off all the debts of the prisoners of the *qāḍī*. Al-Balawī, *Sīrat Aḥmad b. Ṭulūn*, ed. M. Kurd 'Alī (Cairo: Maktabat al-Thaqāfa al-Dīniyya, n.d.), 184-85.

²⁰ Ibn Ḥajar, *Raf' al-iṣr*, 506/67; Cf. E. Tyan, *Histoire de l'organisation judiciaire en pays d'Islam*, 2nd ed. (Leiden: E. J. Brill, 1960), 476.

²¹ Ibn Ḥajar, *Raf' al-iṣr*, 513/70; Ibn Khallikān, *Wafayāt al-a'yān*, 1: 279; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 132. See also al-Balawī, *Sīrat Aḥmad b. Ṭulūn*, 316-18; al-Kindī, *Wulāt*, 231. On this crisis, see Hassan, *Les Tulunides*, 88; Th. Bianquis, “Derrière qui prieras-tu, vendredi?” *Bulletin d'études orientales* 37-38 (1985-86), 18; idem, “Autonomous Egypt,” 101. I disagree with Sayyida Kāshif's statement that Ibn Ṭulūn dismissed Bakkār (Kāshif, *Miṣr fī 'aṣr al-ikhshīdiyyīn*, 205).

²² On these events, see Bianquis, “Autonomous Egypt,” 104-105.

²³ Al-Kindī, *Wulāt*, 238; Ibn Ḥajar, *Raf' al-iṣr*, 515/72; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 52; Ibn Ṭulūn, *al-Uqūd al-lu'lu'iyya fī ta'rīkh al-dawla al-ṭulūniyya*, ed. M. Ḥ. al-Mahannā (Beirut: Dār Ibn Ḥazm, 2007), 38.

²⁴ See M. Tillier, “*Qāḍīs* and the Political Use of the *Maẓālim* Jurisdiction,” in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th–18th Centuries CE*, ed. Ch. Lange and M. Fierro (Edinburgh: Edinburgh Univ. Press, 2009), 49-50.

²⁵ See Wiet, *L'Égypte arabe*, 104.

²⁶ Hassan, *Les Tulunides*, 225. Cf. Tyan, *Histoire de l'organisation judiciaire*, 145-46.

²⁷ Bianquis, “Autonomous Egypt,” 105.

authority on Bakkār by force, but attended his *ḥadīth* circle regularly and showed considerable respect for his religious knowledge.²⁸ When Ibn Ṭulūn attended a funeral, it was always he who prayed over the dead person. However, when both he and Bakkār were present, the amir let the *qādī* lead the prayer.²⁹ The prayer over the dead was not just a religious matter: it was usually the prerogative of the highest-ranking person attending the funeral.³⁰ It was, therefore, a symbolic recognition on Ibn Ṭulūn's part of Bakkār's superior religious authority. Moreover, Ibn Ṭulūn submitted willingly to the judicial process, even renouncing some financial interests in deference to Bakkār's judgment.³¹ Bakkār was also able to blame a defendant who had taken an oath before God but who had refused to swear by the head of the amir: Bakkār argued that Ibn Ṭulūn was merely a human being without suffering any consequences.³² Although Ibn Ṭulūn's leniency may be the outcome of his personal respect for the *qādīs* and the Islamic tradition they represented, it can also be read as a political posture. To establish his legitimacy, he had to show that he was supporting the judiciary and thus protecting the quotidian interests of the Egyptians.

The *qādī*'s legal affiliation was not a major concern of the Ṭulūnids.³³ Like Bakkār, Muḥammad b. 'Abda was a Ḥanafī. However, the last Ṭulūnid *qādī*, Abū Zur'a, was a Shāfi'ī. Although the central government usually sent Ḥanafī *qādīs* from Iraq,³⁴ Mālikī and Shāfi'ī law had a long history within the province.³⁵ The Egyptians probably preferred a Mālikī or a Shāfi'ī judge, and it is possible that the Ṭulūnids initially did not understand local expectations and continued to rely on the Ḥanafī tradition with which they were familiar. Only later did Khumārawayh understand the necessity of appointing a Shāfi'ī judge; perhaps because of his legal affiliation, Abū Zur'a was regarded as an upright (*'afīf*) *qādī*, in contrast to his Ḥanafī predecessor.³⁶

In exchange for their respect for the judiciary, the Ṭulūnids asked for the *qādīs*' political cooperation. Bakkār was expected to attend Ibn Ṭulūn's *majlis* (court) on a regular basis³⁷ and

²⁸ Ibn Ḥajar, *Raf' al-iṣr*, 508/58; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19; Ibn Ṭulūn, *al-'Uqūd al-lu'lu'iyya*, 32. See Hassan, *Les Tulunides*, 224.

²⁹ Ibn Ḥajar, *Raf' al-iṣr*, 509/61.

³⁰ Tillier, *Les Cadis d'Iraq et l'État abbasside*, 473-74; and see Ibn Rushd, *The Distinguished Jurist's Primer: Bidāyat al-Mujtahid*, trans. I. A. K. Nyazee (Reading, UK: Garnet Publishing Ltd., 1994), 1: 279.

³¹ After the death of one of his debtors, Ibn Ṭulūn asked Bakkār to sell a pious foundation established by the debtor in order to recover his money. Bakkār protested and Ibn Ṭulūn abandoned his idea. Ibn Ḥajar, *Raf' al-iṣr*, 508-509/59-60.

³² *Ibid.*, 511/65.

³³ Cf. Hassan, *Les Tulunides*, 222.

³⁴ N. Tsafrir, *The History of an Islamic School of Law: The Early Spread of Hanafism* (Cambridge, Mass.: The Islamic Legal Studies Program, Harvard Law School, dist. by Harvard University Press, 2004), 95-99.

³⁵ See J. E. Brockopp, *Early Mālikī Law: Ibn 'Abd al-Ḥakam and His Major Compendium of Jurisprudence* (Leiden: Brill, 2000), 18-21 and *passim*; on the spread of Shāfi'ī law from the early third/ninth century, see al-Kindī, *Akhbār quḍāt Miṣr*, 438.

³⁶ Ibn Ḥajar, *Raf' al-iṣr*, 519/78.

³⁷ *Ibid.*, 511/65. See also an anecdote about Bakkār interpreting Ibn Ṭulūn's dreams in al-Dawādārī, *Kanz al-durar*, 5: 319.

to be seen with the amir on important occasions.³⁸ Both he and Ibn ‘Abda acted as mediators on behalf of the government. When Ibn Ṭūlūn’s son al-‘Abbās (d. 270/884) revolted against his father in 265/879,³⁹ Bakkār was ordered to go and bring him back.⁴⁰ Muḥammad b. ‘Abda helped Khumārawayh regain control of the army after the governor had an argument with high-ranking officers.⁴¹ In addition, the amirs asked the *qādīs* to support them actively with their plan for autonomy. Ibn Ṭūlūn reached the height of his ambition when he invited the caliph al-Mu‘tamid to join him in Egypt in 269/883. Al-Mu‘tamid was ready to take refuge in Egypt—he was a figurehead in Sāmarrā’ and effective power was exercised by his brother al-Muwaffaq.⁴² The plan failed, however, whereupon Ibn Ṭūlūn convened an assembly of prominent scholars and *qādīs* in Damascus⁴³ and asked them to depose al-Muwaffaq from his role of heir-presumptive (*walī al-‘ahd*) and to curse him. The agreement of the Egyptian *qādī*, Bakkār, was expected to give a strong religious justification for the coup d’état. However, as mentioned above, Ibn Ṭūlūn had misjudged the *qādī*’s loyalty; he refused to support al-Muwaffaq’s deposition and Ibn Ṭūlūn imprisoned him until he died.⁴⁴

The *qādīs*’ political cooperation was acquired by giving financial rewards and offering high salaries. Bakkār received his stipend from the ‘Abbāsīd central administration,⁴⁵ yet Ibn Ṭūlūn tried to gain his support by offering him a bonus of 1,000 dinars a year. But the pious *qādī* refused to touch this money and eventually gave it back to the amir.⁴⁶ Khumārawayh is well known for his generosity, which he regarded as an important way of gaining support.⁴⁷ According to Ibn Ḥajar, he paid Muḥammad b. ‘Abda a salary of 3,000 dinars a month.⁴⁸

³⁸ See, e.g., Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 2: 311. Cf. W. Popper, *The Cairo Nilometer: Studies in Ibn Taghrī Birdī’s Chronicles of Egypt I* (Berkeley and Los Angeles: Univ. of California Press, 1951), 25.

³⁹ Al-‘Abbās exploited the absence of his father, who was heading a military expedition in Syria, to try a coup d’état in Fustāt. When Ibn Ṭūlūn, who had been alerted, returned to Egypt, al-‘Abbās left for Alexandria and then for Barqa with troops and a part of the state treasury. See Wiet, *L’Égypte arabe*, 95-97; Bianquis, “Autonomous Egypt,” 96.

⁴⁰ Al-Kindī, *Wulāt*, 221; Ibn Ḥajar, *Raf‘ al-iṣr*, 512/67.

⁴¹ Ibn Ḥajar, *Raf‘ al-iṣr*, 516/74.

⁴² Bianquis, “Autonomous Egypt,” 101.

⁴³ Within the framework of his expansionist agenda, Ibn Ṭūlūn occupied Syria in 264/878. He was in Damascus, on his way to Ṭarsūs, when he heard that al-Mu‘tamid had left Sāmarrā’ and was heading to Syria. Ibn Ṭūlūn decided to wait for him in Damascus and to escort him to Egypt. See al-Kindī, *Wulāt*, 224-26; Bianquis, “Autonomous Egypt,” 101.

⁴⁴ Al-Kindī, *Wulāt*, 226; Ibn Khallikān, *Wafayāt al-a‘yān*, 1: 281; al-Dawādārī, *Kanz al-durar*, 5: 282; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 129-30, 132; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19, 52; al-Nuwayrī, *Kitāb al-Ilmām*, ed. ‘A. S. ‘Aṭīyya, 7 vols. (Hyderabad: Dā’irat al-Ma‘ārif al-‘Uthmāniyya, 1970), 3: 285-86; Ibn Ṭūlūn, *al-Uqūd al-lu‘lu‘iyya*, 31-32. According to Ibn Ḥajar (*Raf‘ al-iṣr*, 512/66), Bakkār accepted his deposition and only refused to curse him.

⁴⁵ Ibn Ḥajar, *Raf‘ al-iṣr*, 507/57.

⁴⁶ Ibid., 512/67; Ibn Khallikān, *Wafayāt al-a‘yān*, 1: 279; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 132; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19; Ibn Ṭūlūn, *al-Uqūd al-lu‘lu‘iyya*, 32.

⁴⁷ Hassan, *Les Tulunides*, 130ff.

⁴⁸ Ibn Ḥajar, *Raf‘ al-iṣr*, 516/74.

Even if this figure is exaggerated, as suggested by Zaky Mohamed Hassan,⁴⁹ Ibn ‘Abda’s salary was much higher than that of his predecessors.⁵⁰ Sixty years earlier, the *qādī* ‘Iṣā b. al-Munkadir earned “only” the equivalent of 200 dinars.⁵¹ Ibn ‘Abda was, therefore, a very rich man, who could afford a luxurious house in Fustāt.⁵² Although Abū Zur‘a’s salary is unknown, he appeared to have been very wealthy, too. He owned large estates in Syria⁵³ and he threw an extremely expensive feast to celebrate the wedding of his son.⁵⁴

Rewards and high salaries were not only a means to gain the support of the *qādīs*, they were probably also intended to secure the legitimacy of the rulers in an indirect way. The *qādīs* appointed by the Ṭulūnids spread their wealth and thus gained popularity.⁵⁵ By the time Ibn ‘Abda was dismissed and had left Egypt, he was very well liked.⁵⁶ Abū Zur‘a was known for his generosity, acting as the benefactor of Egyptians.⁵⁷ He even circumvented normal procedures by paying the debts of poor defendants himself.⁵⁸ I would like to suggest that his example was not simply a matter of personal generosity, but rather that the Ṭulūnids expected such behavior. Abū Zur‘a had previously lived in Damascus, where he had a bad reputation.⁵⁹ Why did his behavior change once he was appointed in Fustāt? The Egyptian rulers gave him the monetary means to carve out a new reputation, one of justice and generosity, which was clearly meant to reflect back on the dynasty itself.

The religious scholars or ‘*ulamā*’, who looked at the rulers with a critical eye, were not fooled by such politics. After Bakkār, the willingness of some *qādīs* to please the governor was all too evident. When Abū Zur‘a first arrived in Egypt, he went straight to Ibn Ṭulūn’s

⁴⁹ Hassan, *Les Tulunides*, 225.

⁵⁰ The influx of gold and silver since the second/eighth century, which, according to Wadād al-Qādī, could explain the increase in judges’ salaries during the pre-Ṭulūnid period, could also have played a role in Ibn ‘Abda’s large salary. I question, however, whether this influx alone can explain a fifteen-fold increase in less than a century. See W. al-Qādī, “The Salaries of Judges in Early Islam: The Evidence of the Documentary and Literary Sources,” *Journal of Near Eastern Studies* 68 (2009): 28.

⁵¹ Al-Kindī, *Akhbār quḍāt Miṣr*, 435. See Tyan, *Organisation judiciaire*, 339; R. G. Khoury, “Activités scientifiques et métiers libres dans les deux premiers siècles de l’Islam,” *Res orientales* 6 (1994): 63.

⁵² Ibn Ḥajar, *Raf‘ al-iṣr*, 516/74.

⁵³ Ibid., 519/78.

⁵⁴ Ibid., 521-22/82-83.

⁵⁵ See, e.g., ibid., 517/75.

⁵⁶ Ibid., 518/77.

⁵⁷ Ibid., 521-22/82-83.

⁵⁸ Ibid., 522/83.

⁵⁹ He was apparently regarded as having had a dissolute lifestyle. Ibid., 521/81, 522/84. It is not clear whether Abū Zur‘a was already *qādī* of Damascus when he cursed al-Muwaffaq. According to Ibn Taghrībirdī, he had been *qādī* of Damascus before being appointed in Egypt. However, Ibn Ṭulūn asserts that he became the *qādī* of Damascus only after he had been dismissed from Egypt. Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 183; Ibn Ṭulūn, *Quḍāt Dimashq: Al-Ṭaghīr al-bassām fī dhikr man wulliya qaḍā’ al-Shām*, ed. Ṣ. al-Munajjid (Damascus: al-Majma‘ al-‘Ilmī al-‘Arabī, 1956), 22-23.

tomb, where he cried and recited the Qur'an.⁶⁰ His alliance with the government was later sealed by the marriage of his son to a daughter of the director of finances, Abū Zunbūr al-Mādhārā'ī (d. 317/929).⁶¹ This type of behavior did not make the religious scholars think highly of many Ṭulūnid *qāḍīs*. Despite his popularity, Ibn 'Abda was accused of dishonesty when teaching *ḥadīth*: he was suspected of transmitting *ḥadīths* that he did not actually hear but stole from great masters.⁶² Ibn Zūlāq later tried to refute this accusation and suggested that it was due to a misunderstanding. According to him, two *ḥadīth* collections containing similar reports were circulating at the same time, and it is only by chance that Ibn 'Abda's *ḥadīths* were identical to those of other masters.⁶³ In this light it is highly possible that rumors about his teaching were spread to discredit a *qāḍī* who was regarded as being too close to the dynasty.

THE 'ABBĀSID INTERREGNUM (292-323/905-935)

The 'Abbāsid caliphate re-established its authority in Egypt in 292/905. During the next thirty years, the governors were all sent from central government. The *qāḍīs* were likewise appointed from Iraq. From 311/924 onward, a hierarchical system of delegation developed: the *qāḍī* of Fustāt was theoretically one of the *qāḍīs* of Baghdad, but the latter never actually came to Egypt, rather he delegated his authority to a deputy (*khalīfa*), who was in practice the head of the Egyptian judiciary.⁶⁴ Such a centralized system of delegation, which developed simultaneously in other provinces,⁶⁵ was a way of asserting the caliphate's authority while seeming to offer flexibility to the local administration of justice.

Despite this system of delegation, which in theory would have allowed the appointment of local jurists, almost all the *qāḍīs* in this period still came from outside, mostly from Iraq.⁶⁶ The only exception is Abū l-Dhikr, an Egyptian from Ikhmīm.⁶⁷ This was not a new phenomenon: the Ṭulūnids had maintained the tradition of "importing" *qāḍīs* from outside, ever since the aftermath of the fourth *fitna* (civil war) in the early third/ninth century.⁶⁸ After

⁶⁰ Ibn Ḥajar, *Raf' al-iṣr*, 519/78. During the assembly of Damascus, he had also distinguished himself by his readiness to curse al-Muwaffaq, as demanded by Ibn Ṭulūn. Ibid., 520/79-80; Ibn Ṭulūn, *Quḍāt Dimashq*, 23.

⁶¹ Ibn Ḥajar, *Raf' al-iṣr*, 521/82. On Abū Zunbūr, see H. L. Gottschalk, "al-Mādhārā'ī," in *EF*.

⁶² Ibn Ḥajar, *Raf' al-iṣr*, 514/71.

⁶³ Ibid., 515/72.

⁶⁴ Tillier, *Vies des cadis de Miṣr*, 23.

⁶⁵ Tillier, *Les Cadis d'Iraq et l'État abbasside*, 324ff.

⁶⁶ Ibn Burd, in al-Kindī, *Wulāt*, 364; Ibn Ḥajar, *Raf' al-iṣr*, 534/101, 535/102, 536/103, 537/105, 539/108, 546/119, 549/122.

⁶⁷ Ibn Ḥajar, *Raf' al-iṣr*, 532/99. According to Qāḍī 'Iyāḍ, he was from Aswān. Al-Qāḍī 'Iyāḍ, *Tartīb al-madārik wa-taqrīb al-masālik li-ma'rifat al-'lām madhhab Mālik*, ed. A. B. Maḥmūd, 4 vols. (Beirut-Tripoli: Dār Maktabat al-ḥayāt-Dār Maktabat al-fikr, 1967), 3: 297. On Ikhmīm, a town of Upper Egypt, see G. Wiet, "Akḥmīm," in *EF*.

⁶⁸ H. Kennedy, "Central Government and Provincial Elites in the Early 'Abbāsid Caliphate," *Bulletin of the School of Oriental and African Studies* 44 (1981): 38. The fourth *fitna* comprised the civil war between the caliph al-Amīn and his brother al-Ma'mūn (between 195/811 and 198/813) and the thirteen-year disorder that followed.

the restoration of ‘Abbāsīd rule in Egypt, however, the continuing reliance on Iraqi *qādīs*—even non-Ḥanafīs, since Mālikīs and Shāfī’īs also came from Iraq—reinforced the impression that the main offices of state were held by foreigners, and that Egypt was back under the direct supervision of the caliphate.

During the first part of this interregnum, the judiciary symbolized the restoration of legitimate order. The *qādī* would not have been suspected of collaborating with the ruler. To prove their rectitude, the new governors were respectful to the *qādīs* and submitted to their authority. The governor Takīn (r. 297-302/910-15, 307-309/919-21, and 311-21/924-33)⁶⁹ sat lower than his station merited (*yajlisu dūna martabatihī*) while waiting for the *qādī* Abū ‘Ubayd ‘Alī b. al-Ḥusayn b. Ḥarb in his court,⁷⁰ and Abū Zunbūr al-Mādhārā’ī treated the latter with great honor.⁷¹ When a man converted, and then changed his mind and rejected Islam, Takīn began hearing the case at his own court session (*majlis*), summoning the *qādī* Abū ‘Ubayd as a mere advisor. Eventually, however, he did not adjudicate the case himself but let Abū ‘Ubayd do it, suggesting that even at the governor’s court the *qādī* was the highest judicial authority.⁷² Some *qādīs* used the ruler’s positive attitude toward them to assert their autonomy. For example, the same Abū ‘Ubayd refused to call Takīn by his title of “Amir.”⁷³ When he arrived in Fustāt, al-Kurayzī went directly to the mosque and read out his appointment diploma instead of first going to the governor’s palace and greeting him, as was required by custom.⁷⁴ And Aḥmad b. Ibrāhīm b. Ḥammād, whom Takīn held in high esteem, disobeyed the governor’s instructions at least once.⁷⁵

Some of the earliest *qādīs* during this interregnum had close relationships with the governors, but the overall picture is that the judge was a highly independent moral referee in the province. Abū ‘Ubayd was an advisor to Takīn in times of crisis,⁷⁶ but he also criticized him and reminded him of the legal consequences of his actions.⁷⁷ Thus, the *qādī* established himself as a representative of the people⁷⁸ rather than of the government. Abū ‘Ubayd took seriously his duty of summoning high-ranking officials accused of misconduct by commoners, and he defended a woman who had complained about al-Mādhārā’ī.⁷⁹ The

⁶⁹ Al-Kindī, *Wulāt*, 267-73, 276-78, 280-81.

⁷⁰ Ibn Ḥajar, *Raf‘ al-iṣr*, 525/88. In an assembly, people sat according to their social rank. In the absence of the *qādī* in court, the governor could have claimed his seat. Out of respect for the *qādī*, however, he sat at a lower place and stood up to welcome him, as if he was just an ordinary man.

⁷¹ Ibid., 527/90.

⁷² Ibid., 530/96-97.

⁷³ Ibid., 528/93.

⁷⁴ Ibid., 534/102.

⁷⁵ Ibid., 537/105.

⁷⁶ Ibid., 516-17/74.

⁷⁷ Ibid., 529/94.

⁷⁸ By “people,” I mean the group that was not in power. Very rarely do the sources refer to “popular classes” (even the term *al-nās* often means the notables), and what that might mean in these times can hardly be apprehended. Therefore, the word “people” refers here especially to the civilian elites (to whom belonged the transmitters of our sources) who, although they did not take part in the government, were directly affected by its policy.

⁷⁹ Ibid., 529-30/95-96.

second *qāḍī* of the interregnum, Abū l-Dhikr, was appointed in accordance with the wishes of four civil notables, among whom was the Ḥanafī jurist al-Ṭahāwī (d. 321/933).⁸⁰

The re-establishment of 'Abbāsīd rule in Egypt thus gave a boost to the development of judicial autonomy. As in Iraq, the government had to show increasing deference to the law and the judiciary. At a time when the prestige of the Ṭūlūnids was still sharp in everyone's mind,⁸¹ this was meant to please the Egyptians and to affirm the legitimacy of caliphal rule over the province. However, one may suspect that the increased freedom of the *qāḍīs* also opened the way for some of them to commit abuses. Al-Kurayzī apparently appropriated deposits (sg. *wadī'a*) and revenue from pious foundations,⁸² and, perhaps not coincidentally, had a bad reputation as a scholar.⁸³ Paradoxically, a higher degree of judicial autonomy facilitated greater corruption. The main purpose of allowing such autonomy—to show the ruler to be just and legitimate—was not achieved.

This situation developed toward the end of the interregnum, from 317/929—the appointment of Ibn Zabr—onward. The military unrest that roiled Egypt in the late 310s/920s—as a consequence of the perennial difficulty to pay the soldiers⁸⁴—led the governors to build new political alliances with the *qāḍīs*, but the *qāḍīs* role in the unrest is sometimes far from clear. Ibn Zabr was apparently involved in a plot against the vizier 'Alī b. 'Īsā (d. 334/946).⁸⁵ Other *qāḍīs*, such as Aḥmad b. Qutayba (in office 321/933) or al-Sarakhsī (in office 322/934), took part in intrigues that opposed political factions trying to impose their authority over Egypt.⁸⁶ It seems that the *qāḍīs* no longer appeared completely impartial vis-à-vis the governing body.

As said above, most of the *qāḍīs* were not local, or even of Egyptian origin, during the interregnum. They did not know the inhabitants of Fustāt and they had to carry out investigations to find out about them and ascertain their reliability.⁸⁷ Furthermore, the *qāḍīs* themselves were unknown when they arrived in Egypt and they were probably regarded more as members of the ruling administration than as reliable scholars and jurists. To assert their authority and be accepted, they had to prove their legal skills and win over the local scholars. A *qāḍī* could hardly manage the judiciary—especially the administration of pious foundations and other properties—without any knowledge of the local area. Therefore, they usually hired an Egyptian auxiliary (*tawallā bi-amrihi*) to acquaint them with the local inhabitants and their

⁸⁰ Ibid., 532/98; al-Qāḍī 'Iyāḍ, *Tartīb al-madārik*, 3: 298. On Abū Ja'far Aḥmad al-Ṭahāwī, see N. Calder, "al-Ṭahāwī," in *EF*².

⁸¹ On the prestige of the Ṭūlūnids and the attempt of one of their last officers, Ibn al-Khalīj, to restore the dynasty, see Wiet, *L'Égypte arabe*, 113.

⁸² Ibn Ḥajar, *Raf' al-iṣr*, 535/102.

⁸³ Ibid., 534/101.

⁸⁴ Wiet, *L'Égypte arabe*, 124-27. Taxes now left Egypt for Iraq, resulting in the inability to pay the military and the development of factionalism within the army. See Bianquis, "Autonomous Egypt," 109-11.

⁸⁵ Ibn Ḥajar, *Raf' al-iṣr*, 541/110-11.

⁸⁶ Ibid., 546/119, 550/124.

⁸⁷ For example, Abū 'Ubayd had to carry out an inquiry into the imam from his neighborhood. Ibid., 526/90.

practices, and who probably served as an intermediary between the *qādī* and the notables.⁸⁸ Nevertheless, *qādīs* faced difficulties integrating into the local society and were not easily accepted. The arrival in 293/906 of the second *qādī* in the interregnum period, Abū ‘Ubayd ‘Alī b. al-Ḥusayn b. Ḥarb, was followed by a period of tension between him and the religious elite. He argued with the imam of the mosque where he prayed, then he quarreled with his neighbor, a secretary (*kātib*), who organized drinking parties and insinuated that Abū ‘Ubayd was himself responsible for noise in the neighborhood at night.⁸⁹ The Egyptian jurist Ibn al-Ḥaddād (d. 344/955) disliked him initially and compared him (pejoratively) to the *qādī* Yaḥyā b. Aktham (d. 242/857), famous for his love of young men.⁹⁰ Abū ‘Ubayd was still very unpopular when in 304/916-7 (or perhaps in 306/918), he was accused of being responsible for the death of a popular Shāfi‘ī jurist (*faqīh*), Maṣṣūr b. Ismā‘īl.⁹¹

To be accepted, the *qādīs* had to establish peaceful relationships with prominent notables and with the religious leaders of Fustāt. Abū ‘Ubayd eventually acquired a good reputation by showing himself to be thoroughly incorruptible, to the extent that he paid for the fire (*nār*) that he took from the baker.⁹² Aḥmad b. Ibrāhīm b. Ḥammād won over the jurist al-Ṭaḥāwī by attending his lessons and showing him deep respect.⁹³ Ibn Zabr likewise tried to build a good relationship with al-Ṭaḥāwī.⁹⁴

These strategies were sometimes successful. After a few years in Fustāt, Abū ‘Ubayd’s reputation was so good that he became a major legal authority. His written decisions (*tawqī‘āt*) were collected in books and his sayings turned into proverbs.⁹⁵ Other *qādīs* failed to be accepted, however. Despite his efforts, Ibn Zabr could not rid himself of his reputation as a bad scholar and was very unpopular.⁹⁶ Ismā‘īl b. ‘Abd al-Wāḥid earned the hatred of several prominent jurists such as Ibn al-Ḥaddād and al-Ṭaḥāwī after he threw them out of the great mosque. Some Mālikīs conspired against him, and during the civil war that broke out after the governor Takīn’s death in 321/933, his house was plundered.⁹⁷ The unfortunate *qādī* had no choice but to run away.⁹⁸ Toward the end of the interregnum, the local inhabitants

⁸⁸ Ibid., 546/119.

⁸⁹ Ibid., 526/90.

⁹⁰ Ibid., 527/91. On Yaḥyā b. Aktham, see Tillier, *Les Cadis d’Iraq et l’État abbasside*, 443ff. and index.

⁹¹ Ibn Sa‘īd, *Kitāb al-Mughrib fī ḥulā al-maghrib*, ed. K. L. Tallqvist (Leiden: E. J. Brill, 1899), 95. Maṣṣūr b. Ismā‘īl b. ‘Umar al-Tamīmī (d. 306/918) was both a *faqīh* and a poet. The account is that, although he was once very close to the *qādī* Abū ‘Ubayd, they quarrelled about a legal matter. The tension between the two men escalated until which point a witness testified that Maṣṣūr had said heretical words. The *qādī* Abū ‘Ubayd threatened him with the death penalty if a second witness happened to give the same testimony, and Maṣṣūr was so scared that he died. See Ibn Khallikān, *Wafayāt al-a‘yān*, 5: 291.

⁹² Ibn Ḥajar, *Raf‘ al-iṣr*, 529/94.

⁹³ Ibid., 538/107.

⁹⁴ Ibid., 541/112.

⁹⁵ Ibid., 529/94.

⁹⁶ Ibid., 540/109-10.

⁹⁷ On this event, see Bianquis, “Autonomous Egypt,” 110-11.

⁹⁸ Ibn Ḥajar, *Raf‘ al-iṣr*, 544-45/115-16.

(whether influenced by the leading scholars or not) were apparently fed up with these foreign *qādīs*, whom they saw as corrupt and in league with an incompetent government. This could explain why Aḥmad b. Qutayba was so unwelcome when he arrived in 321/933, three years before the end of the ‘Abbāsīd rule, that the ‘*amma* threw stones at him and tore his black robes, which themselves were a symbol of his political allegiance.⁹⁹

THE IKHSHĪDIDS (323-358/935-969)

The position of the *qādīs* changed dramatically under the Ikhshīdids. The first Ikhshīd, Muḥammad b. Tughj (r. 323-34/935-46),¹⁰⁰ extended his authority over the judiciary in 324/936, soon after his appointment as governor.¹⁰¹ From then on, most of the *qādīs* were recruited from among the local scholars—either native Egyptians or men who had lived in Egypt for some time—perhaps to please the discontented Egyptian elite.¹⁰²

However, this change in recruitment had pernicious consequences, for it stirred up feelings of rivalry and competition between the jurists of Fustāt. Now, any *faqīh* of high standing could be a potential candidate. The professionalization of the judgeship, which had been well established in Iraq since the second half of the third/ninth century,¹⁰³ reached Egypt and offered new opportunities to ambitious scholars. Moreover, the appointing power was in Fustāt itself, close to the scholars who could expect to be noticed by the ruler or gain his confidence. Therefore, the number of schemes hatched so as to be appointed a judge increased dramatically during the Ikhshīdīd period. Several methods were tried out.¹⁰⁴ One of the easiest was to eliminate a competitor by denigrating him in the eyes of the ruler. This happened to al-Ḥasan b. ‘Abd Allāh al-Jawharī, who was dismissed in 331/942-3 after Bakrān al-Ṣabbāgh—who wanted his position, and ended up getting it—complained about him to al-Ikhshīd.¹⁰⁵ To keep his position, ‘Abd Allāh b. Muḥammad b. al-Khaṣīb led a group who disparaged Abū Ṭāhir al-Dhuhlī before the regent Kāfūr (r. 335-57/946-68).¹⁰⁶ His son and successor to the

⁹⁹ Ibid., 546/119. On black as the official color of the ‘Abbāsīds, see Kh. Athamina, “Black Banners and the Socio-Political Significance of Flags and Slogans in Medieval Islam,” *Arabica* 36 (1989), 317-21.

¹⁰⁰ On al-Ikhshīd, see Bacharach, “The Career of Muḥammad Ibn Tughj al-Ikhshīd,” 588ff.

¹⁰¹ Al-Dawādārī, *Kanz al-durar*, 5: 371; Ibn Ḥajar, *Raf‘ al-iṣr*, 552/127. See Tillier, *Vies des cadis de Miṣr*, 24; cf. Kāshif, *Miṣr fī ‘aṣr al-ikhshīdiyyīn*, 209-10, 214.

¹⁰² There are some exceptions, however: Ibn Walīd was perhaps not Egyptian (Ibn Ḥajar, *Raf‘ al-iṣr*, 565/147) and al-Kishshī might have come from Palestine (ibid., 572/158). Two appointees were not native Egyptians but had settled in Egypt: ‘Abd Allāh b. Muḥammad b. al-Khaṣīb was originally from Iṣfahān (ibid., 576/164) and Abū Ṭāhir al-Dhuhlī was from Baṣra (ibid., 581/173). In stating that “some” *qādīs* were Egyptians and “others” foreigners, Sayyida Kāshif did not take into account the important difference between “theoretical” *qādīs* (who were formally appointed in Baghdad) and “actual” *qādīs*, nor did she notice that the majority of *qādīs* in this latter category were Egyptian. Kāshif, *Miṣr fī ‘aṣr al-ikhshīdiyyīn*, 219.

¹⁰³ Tillier, *Les Cadis d’Iraq et l’État abbasside*, 357ff.

¹⁰⁴ See Tyan, *Histoire de l’organisation judiciaire*, 305-307.

¹⁰⁵ Ibn Ḥajar, *Raf‘ al-iṣr*, 571/157. Ibn Ḥajar does not explain the nature of his complaint.

¹⁰⁶ Ibid., 578/166.

judgeship, if only for a year, Muḥammad b. ‘Abd Allāh b. al-Khaṣīb, laid traps (*makāyid*, sg. *makīda*) at the amir’s court in order to steer his potential rivals off course.¹⁰⁷

A *qāḍī* who wanted to keep his position had to join forces with the ruler. Ibn Walīd (who secured the judgeship for three separate periods, between 329/941 to 336/948) collected for al-Ikhshīd the ransom for Muslim prisoners of war held by the Byzantines, but in order to make a good impression by bringing in a large amount of money, he abused his power and was accused of extortion.¹⁰⁸ Later, Ibn Walīd paid Kāfūr in order to be reinstated in his position.¹⁰⁹ Such a practice was also entered into by ‘Abd Allāh b. Muḥammad b. al-Khaṣīb and his son Muḥammad.¹¹⁰ The civilian population of Fustāt must have been aware of the competition between the jurists. The madman Sībawayh (d. 358/969), able to articulate what everyone was thinking since his madness protected him from punishment, could therefore publicly warn the *qāḍī* Ibn al-Ḥaddād of the intrigues of his colleague Ibn al-Walīd in 333/944-5.¹¹¹

The recruitment of *qāḍīs* by the Ikhshīdids from among the local jurists deepened the gap between professional witnesses (*shuhūd*) and the Egyptian people. The witnesses, whose number fluctuated but was always limited in quantity, represented an important part of the social elite and they wanted to keep their official positions. The proximity of the appointing power allowed them to play a significant role in judicial policy. Some of them were close to the ruler and could influence him.¹¹² If a *qāḍī* reduced the number of witnesses even further by rejecting their integrity, the social position of the whole group could be threatened. They

¹⁰⁷ Ibid., 580/169, and Tillier, *Vies des cadis de Miṣr*, 186.

¹⁰⁸ Ibn Ḥajar, *Raf‘ al-iṣr*, 568/151-52. On this ransom, see Wiet, *L’Égypte arabe*, 138.

¹⁰⁹ Ibn Ḥajar, *Raf‘ al-iṣr*, 567/151, 570/155. Ibn Ḥajar does not specify the amount of money paid to Kāfūr. The practice was seen as corruption; see Tillier, *Vies des cadis de Miṣr*, 32. Cf. Tyan, *Histoire de l’organisation judiciaire*, 302-303.

¹¹⁰ Ibn Ḥajar, *Raf‘ al-iṣr*, 578/166, 579/168.

¹¹¹ Ibn Zūlāq, *Akhbār Sībawayh al-miṣrī*, ed. M. I. Sa’d and Ḥ. al-Dīb (Cairo: Maktabat al-ādāb, 1933), 37. Muḥammad b. Mūsā b. ‘Abd al-‘Azīz al-Kindī al-Ṣayraḥī Sībawayh was also a scholar and a Shāfi‘ī jurist, student of Ibn al-Ḥaddād. He belonged to the category of the “wise fools” (*‘uqalā’ al-majānīn*) who, according to Michael Dols, “were often unofficial preachers or free-wheeling admonishers of the people, reminiscent of the Old Testament prophets.” M. W. Dols, *Majnūn: The Madman in Medieval Islamic Society* (Oxford: Clarendon Press, 1992), 363; see also F. Rosenthal, *Humor in Early Islam* (Leiden: E. J. Brill, 1956), 15. His biographer, Ibn Zūlāq, was his contemporary and knew him personally. As Katia Zakharia reminds us in an article about the *Kitāb ‘uqalā’ al-majānīn* by al-Nīsābūrī (d. 406/1016), “la voix du fou, quand elle s’élève, hors des normes et des valeurs de l’*adab* ou du *fiqh*, peut avoir dans le cœur du sage, quand il accepte de l’entendre, la grave résonance d’une ardente vérité.” K. Zakharia, “Le statut du fou dans le *Kitāb ‘uqalā’ al-majānīn* d’al-Nīsābūrī, modalités d’une exclusion,” *Bulletin d’études orientales* 49 (1997): 286. For Sībawayh, see Yāqūt, *Mu‘jam al-udabā’*, ed. I. ‘Abbās, 7 vols. (Beirut: Dār al-Gharb al-Islāmī, 1993), 6: 2651-652; Ibn Ḥajar al-‘Asqalānī, *Lisān al-mīzān*, 7 vols. (Beirut: Mu’assasat al-A‘lāmī li-l-Maṭbū‘āt, 1986), 5: 400. See also I. ‘Abbās, *Fann al-sīra* (Amman–Beirut: Dār Ṣādir–Dār al-Shurūq, 1996), 24-26; Th. Bianquis, “La Prise du pouvoir par les Fatimides en Égypte,” *Annales islamologiques* 11 (1972): 56. As we will see below, Sībawayh was generally critical of the Ikhshīdids (for example, he publicly insulted al-Ikhshīd’s vizier: Ibn Zūlāq, *Akhbār Sībawayh*, 26).

¹¹² Ibn Ḥajar, *Raf‘ al-iṣr*, 576/163.

would therefore do their best to harm that particular *qāḍī* by discrediting him with the ruler. A *qāḍī* who increased the number of witnesses, however, would gain their support. This brought about a rift between their hopes and the expectations of litigants for witnesses could be swayed in court by a *qāḍī* who supported them. Examples of both instances are the *qāḍī* ‘Umar b. al-Ḥasan al-Ḥāshimī, who was apparently respected for his judicial acumen but was dismissed by Kāfūr after the witnesses complained about him;¹¹³ and Ibn Walīd, who was hated by the Egyptians for his misdeeds, but was supported by many witnesses whom he had admitted to the profession or whose social position he had strengthened.¹¹⁴ The involvement of leading scholars and professional witnesses in the political hierarchy and in the competition for judgeship became so intense that they apparently no longer responded to the needs of the civilian population.

Because of the proximity between the ruler and the *qāḍī*, the latter was more than ever an important political tool in the hands of the government.¹¹⁵ The *qāḍī* Ibn al-Ḥaddād was appointed to the *mazālim* court by al-Ikhshīd, between 324/936 and 327/939, becoming thus a judicial and political rival of the Shari‘a-court *qāḍī*.¹¹⁶ He was therefore heavily criticized by the inhabitants of Fustāt.¹¹⁷ Ibn Badr helped al-Ikhshīd transfer the income of a *waqf* and assign it to the construction of a *qayṣāriyya*.¹¹⁸ The same *qāḍī* was punished, however, when he refused to cooperate—he was put under house arrest upon his request that a political prisoner be treated with full respect for the judicial procedure.¹¹⁹ When Ibn Walīd received an official appointment from Muḥammad b. al-Ḥasan al-‘Abbāsī (*qāḍī* in Baghdad, 336-39/948-51), he supported Ikhshīdid autonomy by reading the document in the privacy of his home—and not in the public arena of the mosque, as the ‘Abbāsīd power would have expected.¹²⁰ Muḥammad b. ‘Abd Allāh b. al-Khaṣīb gave all his time (*inqaṭa‘a ilā*) to Kāfūr and supervised the construction of his palace.¹²¹ Abū Ṭāhir al-Dhuhlī was supported financially by Kāfūr, presumably in return for his political support.¹²²

The mad scholar Sībawayh’s repeated criticism of al-Ikhshīd and his *qāḍīs* suggests that some Egyptians were not fooled by the political use of judgeship.¹²³ On the whole, the *qāḍīs*

¹¹³ Ibid., 575/163.

¹¹⁴ Ibid., 569/154, 576/163. There were still witnesses who hated him, however. See ibid., 568/152.

¹¹⁵ Kāshif, *Miṣr fī ‘aṣr al-ikhshīdiyyīn*, 217.

¹¹⁶ Tillier, “*Qādīs* and the Political Use of the *Mazālim* Jurisdiction,” 51.

¹¹⁷ Ibn Ḥajar, *Raf‘ al-iṣr*, 556/134; Ibn Zūlāq, *Akhbār Sībawayh*, 33.

¹¹⁸ Ibn Ḥajar, *Raf‘ al-iṣr*, 562/143. A *qayṣāriyya* is “a large system of public buildings laid out in the form of cloisters with shops, workshops, warehouses and frequently also living-rooms.” M. Streck, “*Qayṣāriyya*,” in *EF*.

¹¹⁹ Ibn Ḥajar, *Raf‘ al-iṣr*, 560/139.

¹²⁰ Ibid., 568/152. As recounted above, he also collected ransom money for al-Ikhshīd.

¹²¹ Ibid., 580/170.

¹²² Ibid., 583/176.

¹²³ Ibn Zūlāq, *Akhbār Sībawayh*, 28, 32, 42, 44, 49. The fact that reports about Sībawayh were collected in a book by Ibn Zūlāq implies that his words and deeds were not considered simply anecdotal, but rather socially and/or politically significant. One of his criticisms, of the *qāḍī* Bakrān’s homosexual behavior, was meant to point out his close contact with the Egyptian rulers. Sībawayh

under the Ikhshīdids had a sullied reputation. Ibn Ḥajar's biographies chronicle the many accusations of corruption made against them. Ibn Zabīr, who had already been unpopular under the governorship of Takīn, was reappointed twice by al-Ikhshīd (or with his authorization)¹²⁴—in addition to various abuses, he asked for money to accept new witnesses.¹²⁵ Ibn Walīd was corrupt (*madhkūr bi-l-irtishā'*) and abused his power.¹²⁶ He was hated by the Egyptians,¹²⁷ and so was Bakrān.¹²⁸ Even Ibn Badr, whose reputation was enhanced by his rigorous administration of the estates of orphans at the end of the 'Abbāsīd interregnum,¹²⁹ was now considered corrupt¹³⁰: he harmed witnesses and, in a pretense of increased meticulousness, doubled the number of witnesses required to testify to the appointment of an agent (*wakīl*).¹³¹ It is possible that the increasing professionalization of the judgeship led to an actual change in judicial practice, which was then seen as corrupt by contemporaries. But the Ikhshīdīd *qādīs*' undeniable close association with the government and cooperation with the ruler led to a growing chasm between them and the local civilian elite, and this probably helped to damage the aura of judicial independence and impartiality.

The general anger against the *qādīs* led to several riots. Some unclear troubles that occurred in Fustāt in 331/942-3 might have been caused by the unpopularity of Bakrān.¹³² A riot broke out when Ibn Walīd paid Kāfūr to be reappointed as a *qādī*.¹³³ When 'Abd Allāh b. Muḥammad b. al-Khaṣīb punished the inhabitants of al-Faramā who had complained about him, the populace revolted and forced him to run away.¹³⁴ And another riot developed when his son Muḥammad b. 'Abd Allāh was appointed *qādī* in 348/959—Kāfūr had to launch an investigation into the reason for the discontent this caused.¹³⁵ Frustration was sometimes so deep that the ruler had no choice but to take the populace's aspirations into account. For example, when a complaint was lodged against Bakrān, al-Ikhshīd summoned him and punished him. Eventually, he gathered the notables of Fustāt (*wujūh al-nās*) and appointed a new *qādī* in accordance with their wishes.¹³⁶ In 348/959, after a series of unpopular *qādīs* and several revolts against them, Kāfūr eventually agreed to appoint Abū Ṭāhir al-Dhuhlī, again in

declared that, to purify him, the *qādī* should go down on all fours, have a funnel put up his rectum, and be flushed out with the waters of the Nile. Ibid., 42.

¹²⁴ Ibn Ḥajar, *Raf' al-iṣr*, 542/113, 561/141.

¹²⁵ Ibid., 559/138.

¹²⁶ For example, he asked witnesses to sign a legal document without letting them read it first. Ibid., 568/152.

¹²⁷ Ibid., 565/148, 568/152.

¹²⁸ Ibid., 545/116, 573/159.

¹²⁹ Ibid., 560/139.

¹³⁰ Ibid., 562/142.

¹³¹ Ibid., 560/140.

¹³² Ibid., 573/159.

¹³³ Ibid., 570/155.

¹³⁴ Ibid., 578/166.

¹³⁵ Ibid., 579/168.

¹³⁶ Ibid., 573/159.

accordance with the wishes of the notables and the judiciary staff¹³⁷ (however, he limited the *qādī*'s power by hearing litigants himself at the *maẓālim* court¹³⁸).

The Ikhshīdids had to maintain a balance between their policy of judicial autonomy from the central administration (which required that they impose their authority by controlling appointments) and the gratification of local scholars (and its corollary, the satisfaction of the public's expectations). Because of the increasing complexity of the legal field, this was often problematic. Kāfūr faced more difficulties than his predecessors because he did not initially understand how necessary it was to gain the support of major scholars such as Ibn al-Ḥaddād. His appointment of 'Abd Allāh b. Muḥammad b. al-Khaṣīb, whom Ibn al-Ḥaddād deeply disliked,¹³⁹ was a mistake that eventually led to urban riots.

On the whole, Ibn al-Ḥaddād, who was head of the Shāfi'ī school at that time,¹⁴⁰ represented a challenge for the dynasty. On the one hand, because of his prestige and his reputation as a scholar,¹⁴¹ the Ikhshīdids could not ignore him. He was therefore appointed *qādī* in 324/936¹⁴² and regularly attended the governor's court (*kāna kaṭīr al-taraddud ilayhim*).¹⁴³ On the other hand, he was to a large extent beyond the Ikhshīdids' control. Like his fellow *qādī* Ibn Abī Zur'a,¹⁴⁴ he showed his fidelity to the 'Abbāsids by wearing black robes.¹⁴⁵ Even if the Ikhshīdids were still loyal to the 'Abbāsids, as their coinage suggested,¹⁴⁶ they soon claimed their autonomy in judicial matters and tried their hardest to weaken the formal links between the Egyptian judiciary and the Baghdadi *qādīs*.¹⁴⁷ Ibn al-Ḥaddād's behavior could therefore be regarded as provocative. Like Abū 'Ubayd 'Alī b. al-Ḥusayn b. Ḥarb under Takīn, he adopted a critical attitude towards the government. He dared to criticize Kāfūr in public¹⁴⁸ and he was suspected of Shi'ite sympathies.¹⁴⁹ Moreover, he strongly maintained his judicial authority against the will of the government. He kept in prison a debtor whom al-Ikhshīd's brother and deputy (*khalīfa*), Abū l-Muẓaffar al-Ḥasan b. Ṭughj (d. 342/953),¹⁵⁰ wanted to release, and although the latter controlled the prison, he did not dare oppose the *qādī*.¹⁵¹ The Ikhshīdids found themselves facing an insoluble problem: they could not do without him, but he was a thorn in their side. This is probably why Ibn al-Ḥaddād was

¹³⁷ Ibid., 583-84/177.

¹³⁸ Ibid., 584/178.

¹³⁹ Ibid., 554/130, 576/164, 578/166.

¹⁴⁰ Kāshif, *Miṣr fī 'aṣr al-ikhshīdiyyīn*, 306.

¹⁴¹ See Ibn Zūlāq, *Akhbār Sībawayh*, 19.

¹⁴² Ibn Ḥajar, *Raf' al-iṣr*, 552/127.

¹⁴³ Ibid., 555/131.

¹⁴⁴ Ibid., 562/143.

¹⁴⁵ Ibid., 552/127, 555/162.

¹⁴⁶ Bacharach, "The Career of Muḥammad Ibn Ṭughj," 604-607.

¹⁴⁷ Tillier, *Vies des cadis de Miṣr*, 24-25.

¹⁴⁸ Ibn Ḥajar, *Raf' al-iṣr*, 553/127, 555/131.

¹⁴⁹ Ibid., 555-56/133.

¹⁵⁰ For Abū l-Muẓaffar, see Ibn 'Asākir, *Ta'rīkh Dimashq*, ed. 'U. b. Gharāma al-'Amrawī, 80 vols. (Beirut: Dār al-Fikr, 1995), 13: 117-18; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 252, 254, 310.

¹⁵¹ Ibn Ḥajar, *Raf' al-iṣr*, 567/150-51. On the key issue of prisons in the struggle for judicial autonomy, see Tillier, *Les Cadis d'Iraq et l'État abbasside*, 492ff.

appointed *qāḍī* twice under their rule, but only for short periods.¹⁵² Al-Ikhshīd even tried to ruin his reputation: he sent him a singer on whose behalf Ibn al-Ḥaddād had interceded, and could therefore claim that the famous jurist was secretly listening to music.¹⁵³

CONCLUSION

The judiciary in Egypt was of political importance for both the Ṭulūnids and the Ikhshīdids. Nevertheless, the two dynasties adopted different attitudes toward the *qāḍīs*. The Ṭulūnids were more interested in the legitimacy that the *qāḍīs* could offer them rather than in the direct control of their appointments, while the Ikhshīdids were more preoccupied with their authority and they tried to control the appointments of their *qāḍīs*. In between the two dynasties, after the fall of the Ṭulūnids, the ‘Abbāsids had to re-establish their control over and legitimacy in the province and prove their ability to dispense justice according to the law. Political change and competition for legitimacy advanced the development of judicial autonomy. However, the loosening of the links between the judiciary and the ‘Abbāsid governors during the first half of the fourth/tenth century probably furthered corruption among the *qāḍīs*, and the foreign origin of most of the *qāḍīs* was also responsible for their increasing unpopularity.

The Ikhshīdids recruited their judges more and more from among the Egyptian scholars as a way to enforce their control, and perhaps also to satisfy the populace’s desire for local *qāḍīs*. However, this had an unexpected and insidious effect. By creating new opportunities for the Egyptian jurists, the Ikhshīdids brought the judiciary into the political arena. As a consequence, the *qāḍīs* no longer acted as intermediaries between the people and the government. Their abuses led to several uprisings, while private scholars such as Ibn al-Ḥaddād stood up for the public’s interests.¹⁵⁴ Ibn al-Ḥaddād (in his capacity of *muftī*¹⁵⁵) was pious¹⁵⁶ and enjoyed judicial independence¹⁵⁷ and he was therefore more revered than any other *qāḍī*.¹⁵⁸

To a large extent, this development limited the actual impact of the newly cultivated judicial independence. Theoretically, the legal field now enjoyed complete autonomy from government; Iraqi jurists claimed that judges were largely independent.¹⁵⁹ In practice, however, as the Egyptian attempt at judicial autonomy shows, involvement of the *qāḍīs* in political networks increased, and their practical independence was therefore seriously weakened. The professionalization of the judgeship, with its attractive salaries, also added to their willingness to become *qāḍīs* or to keep their judicial positions, and therefore they were more receptive to political pressure. The Fāṭimid conquest of Egypt in 358/969 changed the situation once again. Since the Fāṭimids could hardly dismiss the much-esteemed Abū Ṭāhir al-Dhuhli, who had been appointed by the Ikhshīdid Kāfūr to agree with the wishes of the

¹⁵² Tillier, *Vies des cadis de Miṣr*, 12-13.

¹⁵³ Ibn Ḥajar, *Raf‘ al-iṣr*, 555/132; Ibn Sa‘īd, *al-Mughrib*, 18.

¹⁵⁴ Ibid., 555/132.

¹⁵⁵ Ibn Ḥajar, *Raf‘ al-iṣr*, 553/128; Ibn Sa‘īd, *al-Mughrib*, 32.

¹⁵⁶ Ibn Ḥajar, *Raf‘ al-iṣr*, 551/126, 552/126.

¹⁵⁷ Ibid., 552/126, 552/128.

¹⁵⁸ Ibid., 552/126-27.

¹⁵⁹ Tillier, *Les Cadis d’Iraq et l’État abbasside*, 631ff.

Egyptian notables — he had even changed one of his judgments to comply with the inhabitants' desires —,¹⁶⁰ they simply restored the *maẓālim* court and appointed a rival judge.¹⁶¹ The judiciary was again, more than ever, a major political concern.

*List of Egyptian governors and qāḍīs*¹⁶²

| Governor | Qāḍī |
|---------------------------------------|---|
| Ṭūlūnids | |
| Aḥmad b. Ṭūlūn (254-70/868-84) | Bakkār b. Qutayba (246-70/860-84) |
| Khumārawayh (270-82/884-96) | Muḥammad b. ‘Abda b. Ḥarb (277 or 278-83/890 or 891-96) |
| Jaysh b. Khumārawayh (282-3/896) | |
| Hārūn b. Khumārawayh (283-92/896-904) | Abū Zur‘a Muḥammad b. ‘Uthmān (284-92/896-905) |
| Shaybān b. Aḥmad (292/905) | |
| ‘Abbāsīd interregnum | |
| ‘Īsā al-Nūsharī (292–97/905-10) | Muḥammad b. ‘Abda b. Ḥarb (292/905) |
| | |
| Abū Maṣṣūr Takīn (297-302/910-15) | Abū ‘Ubayd ‘Alī b. al-Ḥusayn b. Ḥarb (293-311/906-24) |
| Dhakā al-A‘war (303-307/915-19) | |
| Abū Maṣṣūr Takīn (307-309/919-21) | |
| Hilāl b. Badr (309-11/921-23) | |
| Aḥmad b. Kayghalagh (311/923-4) | |

¹⁶⁰ Abū Ṭāhir al-Ḍuhlī had ruled that the son of a Christian woman who had converted to Islam would remain Christian like his father. The caused a furor, with people arguing that it was contrary to the Shī‘ite and the Šāfi‘ī doctrine, and the judge finally reversed his decision. Ibn Ḥajar, *Raf‘ al-iṣr*, 586/181-82.

¹⁶¹ Ibn Ḥajar, *Raf‘ al-iṣr*, 584/179.

¹⁶² The following list does not take into account the “theoretical” *qāḍīs* of Fustāṭ who were appointed in Baghdad and never came to Egypt. For a list including these *qāḍīs*, see Tillier, *Vies des cadis de Miṣr*, 11-14.

| Governor | <i>Qādī</i> |
|---|--|
| Abū Maṣṣūr Takīn (311-21/924-33) | Abū l-Dhikr Muḥammad b. Yaḥyā al-Aswānī (311-2/924) |
| | Ibrāhīm b. Muḥammad al-Kurayzī (312-13/924-25) |
| | ‘Abd al-Raḥmān b. Ishāq al-Jawharī (313-14/925-26) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (314-16/926-29) |
| | ‘Abd Allāh b. Aḥmad b. Zabīr (317/929) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (317-20/929-32) |
| | ‘Abd Allāh b. Aḥmad b. Zabīr (320-21/932-33) |
| Aḥmad b. Kayghalagh (321-22/933-34) | Ismā‘īl b. ‘Abd al-Wāḥid al-Maqdisī (321/933) |
| | Aḥmad b. ‘Abd Allāh b. Qutayba (321/933) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (321-22/933-34) |
| Dispute between Muḥammad b. Takīn and Aḥmad b. Kayghalagh (322-23/934-35) | Muḥammad b. Mūsā al-Sarakhsī (322/934) |
| | Muḥammad b. Badr al-Ṣayraḥī (322-24/934-36) |
| Ikhshīdids | |
| Muḥammad b. Ṭughj al-Ikhshīd (323-34/935-46) | Muḥammad b. Badr al-Ṣayraḥī (322-24/934-36) |
| | ‘Abd Allāh b. Aḥmad b. Zabīr (324/936) |
| | Muḥammad b. Aḥmad b. al-Ḥaddād (324-25/936-37) |
| | al-Ḥusayn b. Abī Zur‘a (325-27/937-39) |
| | Muḥammad b. Badr al-Ṣayraḥī (327-29/939-40) |
| | ‘Abd Allāh b. Aḥmad b. Zabīr (329/940-41) |
| | ‘Abd Allāh b. Aḥmad b. Shu‘ayb (Ibn Walīd) (329/941) |

| Governor | <i>Qādī</i> |
|---|--|
| | Muḥammad b. Badr al-Ṣayrafī (329-30/941-42) |
| | Abū l-Dhikr Muḥammad b. Yaḥyā (330/942) |
| | al-Ḥasan b. ‘Abd al-Raḥmān al-Jawharī (330-31/942-43) |
| | Aḥmad b. ‘Abd Allāh al-Kishshī (331/943) |
| | ‘Atīq b. al-Ḥasan al-Ṣabbāgh, Bakrān (331/943) |
| | ‘Abd Allāh b. Aḥmad b. Shu‘ayb (Ibn Walīd) (331-33/943-45) |
| | al-Ḥasan b. ‘Abd al-Raḥmān al-Jawharī (333/945) |
| | Muḥammad b. Aḥmad b. al-Ḥaddād (333-34/944-45) |
| | ‘Abd Allāh b. Aḥmad b. Shu‘ayb (Ibn Walīd) (334-36/945-48) |
| Regency of Kāfūr (335-55/946-66) | ‘Umar b. al-Ḥasan al-Hāshimī (336-39/948-51) |
| Unūjūr b. al-Ikhshīd (335-49/946-60) | ‘Abd Allāh b. Muḥammad b. al-Khaṣīb (339-47/951-59) |
| ‘Alī b. al-Ikhshīd (349-55/960-66) | Muḥammad b. ‘Abd Allāh b. Muḥammad b. al-Khaṣīb (348/959) |
| Kāfūr (355-57/966-68) | Abū Ṭāhir al-Dhuhlī (348-66/959-76) |
| Aḥmad b. ‘Alī b. al-Ikhshīd (357-58/968-69) | |